

**Memorandum to the File
Case Closure**

Alleged Preferential Treatment and Improper Supervision
South Texas Veterans Health Care System, San Antonio, Texas
(2010-02814-IQ-0089)

The VA Office of Inspector General Administrative Investigations Division investigated an allegation that [REDACTED] gave [REDACTED] preferential treatment. We also investigated an allegation that a VA contractor improperly supervised [REDACTED]. To assess these allegations, we interviewed [REDACTED] other VA employees, and non-VA employees. We also reviewed personnel and email records, other relevant documents, Federal regulations, and VA policy.

(b) (7)(C)

Alleged Preferential Treatment

Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall act impartially and not give preferential treatment to any individual and that an employee shall not use his public office for his own or for the private gain of relatives. 5 CFR §§ 2635.101(b)(8) and 2635.702.

Personnel records reflected that on August 30, 2008, [REDACTED] listed [REDACTED] as a family member on his Health Benefits Election form, and [REDACTED] told us that he [REDACTED] in [REDACTED]. He said that he was not involved in his wife's VA appointment and that a selection panel and the Chief of Staff's office were responsible for her appointment. He also said that [REDACTED] disclosed their relationship during the hiring process; therefore, she reported directly to the Chief of Staff (COS). [REDACTED] told us that he never supervised [REDACTED].

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Personnel records reflected that a five member panel interviewed [REDACTED] none of which were [REDACTED]. The panel members rated [REDACTED] on each of four criteria. Further, a Compensation Panel Action (CPA) dated [REDACTED] reflected that a Chairperson, three committee members, [REDACTED] and the Acting Director signed the action recommendation.

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However, this action reflected, in typed text, that the Chief of Pathology Service [REDACTED] requested [REDACTED] be appointed as a fulltime staff physician, but it did not contain [REDACTED]'s signature. [REDACTED] told us that he did not have a role with this panel and that he did not communicate with any of the panel members. He said that he was the [REDACTED] as reflected on the records; however, he said that he did not write, submit or approve any request for his wife's appointment.

The Request for Personnel Action to appoint [REDACTED] as a fulltime physician reflected that [REDACTED] requested the action, and [REDACTED] authorized the appointment effective March [REDACTED] 2009.

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[REDACTED] told us that she learned of the VA position through another physician and

that she applied for the position over the internet. [REDACTED] said that [REDACTED] did not tell her about the opening or recommend that she apply. Further, she said that he was not involved, whatsoever, in the hiring efforts. She said that through the application and interviewing process, she did not disclose that [REDACTED] was her husband, because she thought that individuals involved already knew that they were married. However, personnel records reflected that she properly disclosed [REDACTED] as her husband on the Declaration for Federal Employment (OF 306) that she completed prior to her VA appointment.

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[REDACTED] said that although [REDACTED] created her work schedule, as with every [REDACTED] he never supervised or evaluated her performance. She said that at no time did [REDACTED] ever give her preferential treatment. Most of the VA Medical Center employees told us that they were not aware of any preferential treatment given to [REDACTED] by her husband [REDACTED]. One physician told us that although he thought that [REDACTED] was within [REDACTED]'s chain of command, he said that he had no knowledge of [REDACTED] supervising [REDACTED] writing her evaluations, or giving her bonuses. Another physician told us that although [REDACTED] was employed in the department, she technically reported to [REDACTED]. He said that to his knowledge, the COS evaluated [REDACTED]'s performance. The [REDACTED] told us that [REDACTED] was a direct report to [REDACTED] however, she said that to address any misperceptions about her chain of command, they realigned [REDACTED] to report to [REDACTED] a VA contractor and University of Texas Health Science Center employee. She told us that the Medical Center Director was in total agreement about the arrangement.

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Alleged Improper Supervision

Federal Acquisition Regulations state that contracts shall not be used for performing inherently governmental functions and the direction and control of Federal employees is an inherently governmental function. 48 CFR § 7.5 and 7.503(c)(7).

The then [REDACTED] told us that [REDACTED] reported to the [REDACTED]'s office from March 2009 to July 2010 and that in July 2010, she began reporting to [REDACTED]. [REDACTED] told us that in a June 21, 2010, email, [REDACTED] told her that her position was moved from [REDACTED] and that [REDACTED] would be her supervisor. She said that the [REDACTED] knew of her duties but she said that he could not evaluate her skills; therefore, she said that [REDACTED] would evaluate her performance.

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The [REDACTED] told us that [REDACTED] was reassigned to surgery because the majority of her work was actually geared towards urology, prostate biopsies, through [REDACTED] and his work. She said that the Medical Center Director was the final approval authority for [REDACTED]'s reassignment from [REDACTED] to the [REDACTED] however, the Acting COS said that it was her recommendation. She said that [REDACTED] evaluated [REDACTED] with input from another VA physician and that [REDACTED] was a VA contractor and not a VA employee. She, however, told us that once she became aware that a non-VA employee could not supervise a VA employee, she assigned

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[redacted] to [redacted] until a permanent [redacted] could be hired at the medical center.

Conclusion

We did not substantiate an allegation that [redacted] gave preferential treatment to [redacted] his spouse. Personnel records reflected that [redacted] was not involved in her VA appointment and there was no evidence that he was involved in supervising or evaluating her performance. Furthermore, the investigation disclosed that medical center management was fully aware of [redacted] and [redacted] being married and made a good faith effort to eliminate even the appearance of a conflict of interest or preferential treatment. Although we initially found that [redacted] was to be supervised by a VA contractor, the [redacted] took immediate action to have her report to the [redacted] a VA employee. These allegations are being closed without a formal report or memorandum.

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Prepared By: [redacted]

10/03/11
Date

Approved By: [redacted]

10/03/11
Date